

**Proposed Arkansas Department of Education
Rules Governing the Standards for Professional Ethical Conduct for Arkansas Educators
(formerly the Rules Governing the Code of Ethics for Arkansas Educators)**

SUMMARY

Purpose:

The proposed changes to the Arkansas Department of Education Rules Governing the Standards for Professional Ethical Conduct for Arkansas Educators (formerly the Rules Governing the Code of Ethics for Arkansas Educators) are made for the following purposes:

1. The rules are now characterized as standards as standards of professional ethical **conduct**. These are minimum standards of conduct for which a licensure sanction or other disciplinary action may be warranted. This is a perception change as codes of ethics are aspirational and provide guidance - not discipline - for professional behavior and decision-making.
2. The fees for licensure application are restructured as application fees, which are nonrefundable, and reflect the various requests for licensure that are available to applicants. The fees are based on recommendations of the Professional Licensure Standards Board (PLSB) pursuant to A.C.A. § 6-17-428.
3. The fines associated with possible disciplinary actions for a violation of the standards of professional ethical conduct are increased based on recommendations of the PLSB pursuant to A.C.A. § 6-17-428 and are intended to strengthen the deterrent effect of the fines.
4. The procedures of the PLSB Ethics Subcommittee and Evidentiary Hearing Panel implement changes in 2015 legislation and address further changes needed for efficient operation of the PLSB Ethics Subcommittee.

SUBSTANTIVE CHANGES:

- **Sections 4.02, 5.06, 5.19, and 6.00** include preservice teachers and implement the provisions of Act 1090 of 2015.
- **Section 5.09** defines “Ethics Complaint” to include the notarized form for allegation of violation.
- **Section 5.13** implements a two-year limitation period for filing an allegation of violation.
- **Section 5.15** adds a definition of “nonrenewal”. Nonrenewal of a license has always been a possible sanction, but was never defined. Further, the rules distinguish between a “temporary nonrenewal” and a “permanent nonrenewal” as there are occasions when a license has expired, but under Arkansas law and rules could still be renewed. To place an expired license under probation, suspension, or revocation is not as efficient as using temporary or permanent nonrenewal.
- **Section 6, Standards 2 and 8** are updated.

- **Section 7.04** implements provisions of Act 1090 of 2015.
- **Section 8.04** allows the State Board to request the sworn testimony of the PLSB investigator or Chief Investigator on a case before the State Board.
- **Section 9.00** (and Appendices C and D) clarify that licensure fees are nonrefundable application fees.
- **Section 10.04** adds a notice to the educators concerning the publicity of State Board meetings.

PROCEDURAL CHANGES:

Appendix A -

- **Section 2** clarifies that the PLSB staff will redact certain information from documents that are releasable under the Freedom of Information Act.
- **Section 3** is added to clarify procedures when statutory timelines need to be waived (as is permitted by law).
- **Section 5:**
 - **5.a** provides a clear procedure for completing and submitting an allegation of violation form.
 - **5.c** requires that the form be notarized.
 - **5.d** clarifies when a member of the Ethics Subcommittee should recuse from the decision to authorize an investigation.
 - **5.d.i.** clarifies that the subcommittee will not authorize an investigation when the conduct occurred before the two-year limitation period.
 - **5.d.ii** clarifies that PLSB staff may explain to the complainant the reason for a decision not to authorize an investigation of the alleged conduct.
 - **5.e.i** clarifies that if the Ethics Subcommittee authorizes an additional investigation based on violations discovered during investigation (as is permitted by law) that the timeline will restart.
 - **5.f.iii** explains that a recorded interview containing student names will not be released, but an educator may listen to the recording, or may request a transcript at the educator's expense.
 - **5.f.vi** explains procedures for providing legal notices and determining receipt of the notice.
 - **5.g-i** provide timeline and procedural clarifications concerning the initial determination of the Ethics Subcommittee
 - *Note that former Section 5 is repealed and redistributed in other parts of these rules.*

- **Section 6** adds procedures for filing and arguing motions.
- **Section 7** provides updated evidentiary hearing procedures, including the use of an evidentiary hearing panel, permitted by Act 1090 of 2015.
- **Section 8** clarifies that the party requesting a subpoena is responsible for the associated fees and service of the subpoena.
- **Section 9** provides updated procedures for filing and presenting cases for State Board of Education review, including the format of written objections and briefs. The revised procedures also include motions, testimony, requests for extensions of time, and timelines for decisions and orders.
- **Section 10** is added to clarify procedures for filing an appeal of a State Board decision.

Appendix B is added to provide a timeline summary of the new procedures outlined in Appendix A.

Appendix C provides updated fees for sanctions.

Appendix D provides updated fees for licensure applications and clarifies that the fees are nonrefundable.

Appendix E provides updated guidelines for the Standards of Professional Ethical Conduct 1 and 2.

Appendix F is the revised allegation of violation form. The form will be a .pdf fillable form and placed on the website for ease of access.